

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ROY STEVE DAVIS,

Petitioner,

v.

**Civil Action no. 5:06cv111
(Judge Stamp)**

AL HAYNES,

Respondent.

ORDER TO SUBSTITUTE RESPONDENT

On September 20, 2006, the *pro se* petitioner, who was then incarcerated at FCI Gilmer filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. He named as the respondent, Al Haynes, warden of that institution. Thereafter, Mr. Haynes was replaced by Joyce Francis as the warden of FCI Gilmer, and the petitioner filed a motion (Doc. 18) seeking to substitute Joyce Francis as the respondent. The petitioner has now been moved to USP Lee County, which is located in Jonesville, Virginia. Therefore, the petitioner has filed a motion (Doc. 22) seeking to substitute Joe Driver as the respondent. Upon consideration of the foregoing, it is hereby

ORDERED that the petitioner's motion (Doc. 18) be DENIED as moot, but that the petitioner's motion (Doc. 22) be GRANTED and the Clerk of the Court shall terminate Al Haynes as the respondent in this matter and substitute Joe Driver. In ordering the substitution, the Court notes that jurisdiction over a §2241 petition is determined at the time of filing of the petition. Hooker v. Sivley, 187 F. 3d 680, 682 (5th Cir. 1999). Thus, this Court continues to have jurisdiction over this matter even though the petitioner is now incarcerated in Virginia.

IT IS SO ORDERED.

The Clerk of the Court is directed to send a copy of this Order to the *pro se* petitioner and

provide a copy to counsel of record as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: February 4, 2008.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE